

## NEW YORK TRACTION IN HIGHEST U.S. COURT

Decision Delayed on Motion  
to Intervene With Brief  
in Chicago Appeal.

### SOME ISSUES SIMILAR

Corporation Counsel O'Brien  
Opposes Application Made  
by Interborough.

### OTHER CITIES AROUSED

Rochester, Elmira, Buffalo and  
Niagara Falls Represented  
at Washington.

Special Despatch to THE NEW YORK HERALD.  
Washington, D. C., Nov. 7.

The New York city traction controversy found its way into the United States Supreme Court today in an unexpected manner.

When the court convened Louis R. Carpenter, on behalf of James L. Quackenbush, counsel for the Interborough Rapid Transit Company, asked permission to file a brief in the Chicago traction case, which is up for hearing to-morrow.

The Chicago case contains many of the elements of the New York city traction litigation, and it is expected it will stand as a precedent for the settling of disputes over public utility rate increases in cities all over the country. The Illinois State Supreme Court already has decided the case against the city of Chicago and it has been appealed to the United States Supreme Court.

Counsel for the city of New York, including Senator Hiram Johnson of California, Corporation Counsel John P. O'Brien of New York and his assistants, William E. C. Mayer and Edgar J. Kohler, were on hand to combat Mr. Quackenbush's move. Senator Johnson asked permission to file a brief on behalf of the city if the court granted Mr. Quackenbush's request.

Chief Justice Taft announced that the court would take the requests under advisement and it is expected a decision will be rendered to-morrow when the Chicago case is argued.

#### Points in Road's Brief.

In his brief, Mr. Carpenter presented this argument, bearing on the New York city case:

"The State of Illinois, by altering or authorizing an alteration of rate provisions of the franchise ordinances and thereby modifying or waiving rights or obligations of the city thereunder, whether contractual or otherwise, invades no constitutional right which the city alone may assert against the State. The real question here is not as to the exact nature of the agreement which has been made between the city and the street railway companies, or whether, as between these parties, a contract right of the city has been changed or impaired, but whether or not the city has a contract right to continue the exercise of control over a governmental matter as a State agency which may be altered or withdrawn by the State without contravening the contract clause of the Federal Constitution.

"The ordinance in question, while nominally an arrangement between the city and the street railways, was in reality a grant from the State to the street railway companies. In granting franchises for public service, the municipal corporations are discharging a governmental function as agents of the State and this court has recently referred to municipal utilities as governmental agencies in granting such franchises and fixing therein the rates to be charged."

#### O'Brien Questions Sincerity.

Corporation Counsel O'Brien issued a statement vigorously denouncing Mr. Quackenbush's move as "an attempt to steal a march on the city of New York." "The Chicago case involves the five cent fare issue and decision in it will affect the fare question in many cities," said Mr. O'Brien. "It involves the power of the Public Service Commission to raise rates of fare in spite of and in derogation of an express, positive provision in franchisees prescribing a five cent fare, contractual in its nature."

"While the traffic question involving fares has been presented in minor aspects to the Supreme Court since the war this is the first time the power of the State Legislature, through the Public Utilities Commission, to override and nullify the five cent fare in franchise contracts has come up before this court."

"Holding back until the last minute with the thought of concealing its move, the Interborough Rapid Transit Company of New York city, which has been contesting Mayor Hylan's position on the five cent fare proposition, made a move to present its views upon the legal question involved in the Chicago case to the United States Supreme Court, hoping that the New York city authorities would be asleep at the switch."

Similar requests for leave to file briefs were made by Assistant Corporation Counsel Rupp of Buffalo, Corporation Counsel Moore of Niagara Falls, Special Assistant Corporation Counsel Byrd McDowell of Elmira, and Corporation Counsel Pierce of Rochester.

While the issues in the Chicago case in some aspects approach the situation involved in the surface railway franchises in New York city, there are essential differences, the New York courts having in various decisions taken a position directly opposite to that of the Illinois Supreme Court, so that the decision to be handed down by the court in the Chicago case will not necessarily be controlling in the New York city traction litigation, which inevitably will reach the United States Supreme Court.

A perusal of Mr. Quackenbush's brief which he seeks permission to file in the United States Supreme Court discloses not a single reference to the New York city traction litigation, the Interborough's participation in them, nor to the decisions rendered in the Court of Appeals of New York State.

## INWOOD'S NEW HUNT CLUB OUT TO BAG SAVAGE DOGS

Residents at Tip of Manhattan Are Tired of Preying  
Pack and With Shotguns Intend to Stop Slaughter  
of Their Domesticated Pets.

Wild dogs which have been chewing up domesticated canines in the Inwood section around 218th street and Seaman avenue for several months have been making so much noise lately, uttering such ear-shattering howls and yowls, that the people of Inwood decided to do something about it. They already had tried the police, the Society for the Prevention of Cruelty to Animals and all sorts of agencies, but got no relief. Last night they held a meeting and adopted resolutions.

For fear the resolutions, though strongly worded, might not be taken any more seriously by dogs than they usually are by humans, the residents of Inwood decided to use shotguns also. Poses will be organized, shotguns oiled and loaded to the muzzle, clubs polished for the slaughter, and pretty soon the killings will be in full swing.

The pack of dogs first attracted public attention last May, when it came down out of the woods and carried away a pet

pup which was the pride and blessing of a little boy. The police started after the dogs, but the animals ran back into the woods and were not seen again for some time. Then they began to appear again. Of late they seem to have picked out the homes of the persons who hate them most, and under the windows of these homes they gather for their nightly serenades and concerts.

Last Sunday night the pack added the soul of a collie to its collection, and the Inwood people say they never heard such howlings and goings on in their lives. It is believed that the collie bit the head wild dog and that the head wild dog expressed his opinion of a domesticated canine which resisted capture by the savages.

If Jockeys Silverthorne, one of the most bitter enemies the dogs have, said the animals howled from midnight to two o'clock, when the collie finally gave up the fight and the dogs went back to their wooded fastness.

### BURCH LEGALLY SANE, MURDER TRIAL GOES ON

Motion to Dismiss Lost Also  
by Mrs. Obenchain.

LOS ANGELES, Nov. 7.—Arthur C. Burch, indicted for murder in connection with the slaying of J. Benton Kennedy, broker, here last August, was adjudged legally sane here to-day by Superior Judge Sydney N. Reeve.

The court denied a motion that Burch be granted a sanity trial before trial of the murder case.

Nevertheless, Burch's defense in the murder action will be insanity, his attorneys indicate. They filed a motion asking a postponement that they might obtain depositions in the East which, they said, would pertain to Burch's mental condition.

The court also continued until to-morrow consideration of a motion to dismiss the murder charge against Mrs. Madeline Obenchain, indicted jointly with Burch, on the ground she had not been tried within the statutory period of sixty days.

### GRAIN EXCHANGE LAW UPHOLD

CHICAGO, Nov. 7.—The temporary injunction seeking to prevent the Capper-Tincher grain exchange regulation bill from going into effect was dissolved in Federal court to-day by Judge K. M. Landis. John H. H. Jr., who filed the bill questioning the constitutionality of the act, received two weeks to carry the case to the Supreme Court.

### NEW EFFORT TO STOP BORDER RUM RUNNING

Canadian Commissioner Co-  
operates With Haynes.

Smuggling of liquor across the Canadian border has reached such large proportions that a special campaign is being mapped out to prevent it by Roy C. Haynes, Federal Prohibition Commissioner, in cooperation with Edward Taylor, Canadian Commissioner of Customs and Excise, it was learned yesterday.

Commissioner Haynes and Mr. Taylor had a conference last Saturday in Washington, at which conditions along the border were discussed. Beginning next week Mr. Haynes will make surveys at numerous points along the border to obtain first hand information. Later he will go to Connecticut and institute a weeding out process among the prohibition forces owing to unsatisfactory conditions there.

### WED 68 YEARS; CELEBRATE.

Special Despatch to THE NEW YORK HERALD.  
PLAINFIELD, N. J., Nov. 7.—Mr. and Mrs. James Clawson celebrated the sixtieth anniversary of their marriage yesterday at the home of their daughter, Mrs. Ann F. Randolph, when they received congratulatory messages from relatives and friends. Mr. Clawson on Saturday observed his nineteenth birthday anniversary and within the coming two weeks Mrs. Clawson will be ninety years old. They are both enjoying excellent health.

## MUNN MOTOR KILLS COLUMBIA WOMAN

Miss Josephine Herrnheliser,  
40, Run Down Accidentally  
by Physician's Car.

Miss Josephine Herrnheliser, 40, a student of English literature at Columbia University, was run down and killed by an automobile last night in St. Nicholas avenue at 144th street. This automobile, the police reported, was the property of Dr. John P. Munn of 18 West Fifty-eighth street, who was the personal physician of Russell Sage and Jay Gould and other well known men of their day. The physician was in the machine at the time.

It was said by the police that Miss Herrnheliser became confused as she started across St. Nicholas avenue. A motor bus was approaching from the south and she ran out of its path only to step in front of the physician's car. Ell D. Terwilliger, his chauffeur, applied the brakes but the machine went forward far enough to knock the woman down. She became unconscious immediately.

Policeman Wilson of the West 152d street station was only a block away when the shriek of the machine's brakes drew his attention to the accident. As soon as he saw the condition of the woman he realized she needed medical attention too badly to wait for the arrival of an ambulance surgeon. Instead of waiting he stopped a taxicab and with Terwilliger's help lifted her into it. She was driven at top speed to Harlem Hospital in the hope that an immediate operation might have her. While the surgeons were preparing to examine her, she died.

Terwilliger, who has been Dr. Munn's chauffeur for many years, was arrested on a technical charge of homicide. The arrest was merely a formality, it was understood, as there were witnesses who said he had done everything in his power to avoid the accident. Dr. Munn obtained his release by giving the house address of his own—that at 29 West Thirty-eighth street—as security for the man's appearance in court to-day.

Miss Herrnheliser's body was identified through Columbia University registration cards found in her purse. At the university it was said she was enrolled in the extension courses and was specializing in English literature.

As a result of the shock of seeing his car run down Miss Herrnheliser Dr. Munn was unnerved. He is advanced in years and retired from practice.

### CAN'T BIND CITY UTILITIES.

WASHINGTON, Nov. 7.—The Supreme Court to-day upheld contentions of the city of Springfield, Ill., that public utilities operated by municipalities can be exempted from jurisdiction of State laws regulating privately owned public utility corporations.

## SLAIN IN PROTECTING WIFE FROM INTRUDER

Unarmed Man Shot to Death  
in Bed.

Special Despatch to THE NEW YORK HERALD.  
KNOXVILLE, Tenn., Nov. 7.—Lester Dooley, 26 years old, was murdered in his little home at 3 o'clock this morning by an unknown intruder.

Dooley died after giving a meagre description of his assailant, whom he declared was a negro or white man with face blackened.

Dooley, who was discharged from the army six months ago, was sleeping beside his young wife when both were aroused by a man in the room. The intruder carried a searchlight and pistol, and he demanded Dooley's pistol. Dooley told him he had no gun. The intruder then demanded money. When told there was no money the marauder walked to the side of the bed where Mrs. Dooley was lying.

Her husband raised himself to protect his wife and the assassin fired, the bullet entering Dooley's abdomen.

Mayor W. Neal has announced a reward of \$2,500 for arrest and conviction of night intruders.

### LINER TO BE SOLD FOR DEBTS.

Old New York, Owned by Polish  
Navigation Company.

The old American liner New York, which has made one transatlantic voyage for the Polish Navigation Company, which acquired her several months ago, will be sold to satisfy creditors of the company, chief among whom is the Morse Dry Dock Company with a claim for more than \$50,000. The crew have a claim of \$25,000 for wages. The order for the sale was signed yesterday by Federal Judge Edwin L. Garvin in Brooklyn.

According to the papers in the case, the liner was sold by the International Mercantile Marine to an unnamed party for \$100,000 and later was passed on to the Polish Navigation Company for \$450,000, the company paying \$25,000 down and mortgaging the ship for \$425,000. She lies at the foot of Thirty-third street, Brooklyn, in the custody of a United States marshal.

### WOMAN KILLED AT CROSSING.

Hubbard Gravely Hurt When  
Train Hits Motor Car.

Within a few minutes after the flagman at the Grove street crossing of the Greenwood Lake division of the Erie Railroad at Montclair, N. J., had gone off duty last night Mrs. Caroline Mitton, 64, of 433 Grove street, Montclair, was killed by a train and her husband, Arthur J. Mitton, 66, a butcher, was so badly injured that he probably will die. They were riding in an automobile driven by Mitton. Mitton is in the Montclair Hospital.

Mrs. Mitton's body was carried down the tracks several yards, but her husband was thrown clear of the train and when picked up was unconscious.

## REJECTED RECTOR

SUES FOR \$50,000

Rev. E. J. Baird Asserts Mill-  
brook Church Cost Him  
Life Position.

Trial of the suit brought by the Rev. Edward J. Baird of 88 Monroe place, Brooklyn, against the vestry and wardens of Grace Church at Millbrook, Dutchess county, N. Y., for the recovery of \$50,000 damages was begun yesterday before Supreme Court Justice Faber in Brooklyn.

Dr. Baird testified that after he was called formally to the pulpit of the church he accepted the call, but the defendants thereafter failed to take the steps necessary to enable him to qualify as rector.

Dr. Baird charged that his selection was regarded favorably by the congregation generally, but an influential and wealthy group objected to him. He said he lost an honorable life position and therefore was entitled to damages.

The defendants in answer set up that Dr. Baird's wife, Clara J. Baird, divorced him in 1919 in Oklahoma on the grounds of cruelty and that in that suit he was charged with conduct unbecoming a clergyman. Dr. Baird, according to the papers filed, denied his wife's charges, but did not appear to defend himself against them.

Part of the evidence yesterday consisted of letters which passed between George H. Bannister, clerk of the vestry of the church, and the late Bishop David H. Greer. In a letter to the Bishop, dated May 7, 1918, Mr. Bannister stated that the vestry had passed a resolution to call Dr. Baird.

Bishop Greer replied that he could not approve of calling Dr. Baird because he had learned "from several parishioners upon whose support the church largely depends that Dr. Baird is not satisfactory to them."

The trial is being continued.

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### N. Y. PILOT IS SECOND IN TRADE PLANE RACE

Max Goodnough Scores 4,640  
Points in Nebraska.

OMAHA, Nov. 7.—E. F. White, Tulsa, pilot of a plane owned by C. B. Whitman of Tulsa, to-night was officially announced winner of the Larsen trophy and \$3,000 first money in the Larsen race for commercial planes at the international aero congress which closed here Saturday. White scored 4,640 points.

Max Goodnough of New York, who piloted a plane owned by John Larsen, donor of the trophy, won second money, \$2,000, scoring 4,640 points, and Eddie Stinson, piloting another Larsen plane, was third, with 4,212 points. He won \$1,000 prize money.

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Men's Hand-Tailored Winter Overcoats  
Models and fabrics for every conceivable occasion  
Same grade of overcoats last year were \$75  
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Men's Hand-Tailored Business Suits  
Singed or doubled, in strictly custom fabrics  
Same grade of suits last year were \$75  
**\$50**

Men's High or Low, Black or Tan Shoes  
New models, heavy or medium, and fine quality  
Same grade of shoes last year \$12.00 and \$14.00  
**\$6.50**

Men's Genuine Imported Irish Linen Collars  
Wings, straights, and folds of superb quality  
A 60c collar last year — A 60c collar this!  
**35c**

FIVE SPECIAL ECONOMY PLANKS  
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Imported Wool Golf Jackets . . . . .	\$13.50
Men's Blanket Robes . . . . .	\$6.75
Shirts of Imported Madras or Oxford . . . . .	\$2.00
Grey Mocha Gloves . . . . .	\$2.75

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<b>BOYS' WEARMOOR OVERCOATS</b> Made to our own specifications in serviceable all-wool fabrics. 10 to 18 years.	<b>\$18.75</b>	<b>\$27.50</b>	<b>\$8.75</b>
<b>BOYS' WEARMOOR NORFOLK SUITS</b> A fine selection of all-wool fabrics, tailored in the Wearmoor way. 8 to 18 years.	<b>15.00</b>	<b>24.50</b>	<b>9.50</b>
<b>SMALL BOYS' WEARMOOR OVERCOATS</b> In all wool fabrics, flannel-lined. 3 to 10 years.	<b>15.75</b>	<b>24.50</b>	<b>8.75</b>
<b>BOYS' WESTERN WOOL MACKINAW</b> Genuine wild-west Buffalo Bill Mackinaws, in all colors. 8 to 18 years.	<b>12.00</b>	<b>16.50</b>	<b>4.50</b>
<b>BOYS' NORWEGIAN CALF HIGH SHOES</b> Mahogany color. Sizes 1 to 6.	<b>6.50</b>	<b>9.00</b>	<b>2.50</b>
<b>BOYS' BLACK LACED SHOES</b> A comfortable high shoe model, in a substantial leather. Sizes 11 to 13½ and 1 to 6.	<b>4.50</b>	<b>6.50</b>	<b>2.00</b>
<b>THE TELL-TALE TOTALS</b>	<b>\$72.50</b>	<b>\$108.50</b>	<b>\$36.00</b>

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